

<p style="text-align: right;">Page 182</p> <p>1 W. EBER</p> <p>2 Q Under the terms of the will if Lester had</p> <p>3 died in 2016 who would have gotten control of Eber</p> <p>4 Brothers and Co. Inc. stock?</p> <p>5 A It's irrelevant.</p> <p>6 Q Is it irrelevant when you're determining</p> <p>7 the interpretation of what the intent of the will</p> <p>8 was?</p> <p>9 MR. RAMSEY: Form.</p> <p>10 A The intent of the will, it's right in</p> <p>11 there that says Lester while he is living is running</p> <p>12 the company.</p> <p>13 Q It doesn't say that.</p> <p>14 A It says Lester's running the company.</p> <p>15 MR. RAMSEY: We're going to take five</p> <p>16 minutes here.</p> <p>17 VIDEOGRAPHER: The time is 15:52. We are</p> <p>18 off the record.</p> <p>19 VIDEOGRAPHER: The time is 15:57. We are</p> <p>20 on the record.</p> <p>21 Q As secretary of Eber Brothers and Co. Inc.</p> <p>22 you are in control of the stock book and ledger for</p> <p>23 the company; correct?</p> <p>24 A Correct.</p> <p>25 Q Where is that located?</p>	<p style="text-align: right;">Page 184</p> <p>1 W. EBER</p> <p>2 A At the time I wasn't sure.</p> <p>3 Q So did you ever tell the bank that you had</p> <p>4 found the stock book?</p> <p>5 A Basically what I said was I would look for</p> <p>6 it. I think it was like in June and then I said I</p> <p>7 would look for it over Fourth of July weekend and I</p> <p>8 never heard back from the bank and then it was like</p> <p>9 in a black hole. No one said anything back to me.</p> <p>10 Q So you were waiting for the bank to tell</p> <p>11 you, yes, please look for it?</p> <p>12 A Right, but it's really irrelevant because</p> <p>13 it wouldn't be -- well, whatever.</p> <p>14 Q Why do you say it's irrelevant?</p> <p>15 A Because we have the stock books. We have</p> <p>16 them.</p> <p>17 Q Okay. Had you told your lawyer that you</p> <p>18 did not have the stock book?</p> <p>19 MR. RAMSEY: Form. Stop. Communications</p> <p>20 with your counsel.</p> <p>21 MR. BROOK: Not when he disclosed it.</p> <p>22 Let's look at this here. This is Exhibit 40</p> <p>23 previously marked. It's an email from Jim Pazzona</p> <p>24 to a lawyer for CNB stating, "Dear Melissa, I trust</p> <p>25 you received my voicemail of yesterday afternoon</p>
<p style="text-align: right;">Page 183</p> <p>1 W. EBER</p> <p>2 Q Where in Rochester?</p> <p>3 A 95 Allens Creek Road.</p> <p>4 Q How long has it been at that location for?</p> <p>5 A Since we moved. The company moved from</p> <p>6 155 Paragon Drive.</p> <p>7 Q Okay, and was it in Lester Eber's personal</p> <p>8 office or in another part of the office space there?</p> <p>9 A I'm not exactly sure where. It probably</p> <p>10 was between the two. It might have been in his</p> <p>11 personal office. They're connected.</p> <p>12 Q Did you have some difficulty in locating</p> <p>13 that stock ledger in about mid '17?</p> <p>14 MR. RAMSEY: Form.</p> <p>15 A We were, um -- I told the bank or what we</p> <p>16 basically said -- I wasn't exactly sure where it was</p> <p>17 and I was going up to Rochester over Fourth of July</p> <p>18 and I said I would look for it then.</p> <p>19 Q Why did you tell them that you would look</p> <p>20 for the stock book? What was the reason for the</p> <p>21 inquiry.</p> <p>22 A The bank had requested.</p> <p>23 Q What was your understanding as to what the</p> <p>24 bank wanted to do with the stock book?</p> <p>25 MR. RAMSEY: Form.</p>	<p style="text-align: right;">Page 185</p> <p>1 W. EBER</p> <p>2 regarding your inquiry as to the corporate stock</p> <p>3 book of Eber Brothers and Co. Inc. I am fairly</p> <p>4 confident that they do not have it, however to be</p> <p>5 sure Wendy will be in Rochester over the Fourth of</p> <p>6 July weekend and will double check."</p> <p>7 A Yes. This is incorrect.</p> <p>8 Q What about this is incorrect?</p> <p>9 A That -- I didn't say I'm confident that</p> <p>10 they don't have it. I didn't -- I said I would look</p> <p>11 for it is what I said. I don't necessarily know</p> <p>12 where it is. I will go look for it. I'm going to</p> <p>13 be up there Fourth of July weekend and then I didn't</p> <p>14 here anything.</p> <p>15 Q So you're saying you did not authorize</p> <p>16 your lawyer to tell CNB that he was confident that</p> <p>17 you didn't have the stock book?</p> <p>18 A No, I didn't say that. I just said this</p> <p>19 is incorrect.</p> <p>20 Q So you did authorize him to --</p> <p>21 MR. RAMSEY: No. This is not a waiver of</p> <p>22 privilege here. Whatever he said, he said.</p> <p>23 But that doesn't mean a waive of any privilege.</p> <p>24 She's saying that this is inaccurate.</p> <p>25 Q Now, was this email here forwarded to you?</p>

47 (Pages 182 - 185)